

Summary Minutes of the
Delta Protection Commission
Thursday, January 26, 2006

1. Call to Order/Roll Call

Chair McGowan called the meeting to order at 6:40 p.m.

Present: Chairman McGowan, Vice Chairman Ferguson, Commissioners Johnson, Morey, Nottoli, Perez, Reagan, Sanders, Shaffer, Simonsen, van Loben Sels, and Wilson; Les Harder for Kathy Kelly and Roberta Goulart for Mary Piepho.

Absent: Commissioners Beckman, Calone, Cabaldon, Ornellas, and Piepho.

2. Public Comment

Peggy Bohl, Clarksburg, stated that she is the spokesperson for the *Concerned Citizens of Clarksburg*. She said the group came together two years ago regarding its concerns about the Sugarmill project. She said the group did not feel that urban building should take place behind fragile levees, nor should the historic nature of the Delta community be violated. Ms. Bohl stated that the group's focus has expanded to the Primary Zone, which it feels is threatened. She submitted correspondence from the County of Sacramento and the Department of Water Resources regarding projects proposed for the town of Courtland.

Marci Coglianesse commented that she would like to see a Delta Summit convened. The summit would be a forum between the Commission and local officials to facilitate emergency response strategies. She further stated that the issue is at a critical point because the state is developing a new "vision" for the Delta and local agencies have not been fully engaged on Delta issues.

Bruce Connelly, City of Oakley announced that he would be attending Commission meetings on behalf of the city.

Ben Wallace, Solano Land Trust announced that the Land Trust would be having a meeting on February 21, 2006 at the Solano Irrigation District office in Vacaville. He said that the Land Trust would be sponsoring a feasibility analysis to examine whether it would be possible to restore historic flows on the upper portion of Lindsey Slough. The Land trust is looking at social economic issues to incorporate into their plan.

John Stump, Courtland said that there is overwhelming opposition to the Courtland Plaza Project. He said that the proposed project, which will feature a 32-unit apartment complex on 2.54 acres, was approved with conditions; however, those conditions have not been met. He asked for Commission guidance on the matter.

3. Minutes of the Last Meeting

Commissioner Reagan moved approval of the minutes; Commissioner Wilson seconded. The minutes were approved unanimously.

4. Receive Presentation by Senator Torlakson Regarding (1) Delta Trail Concept and (2) Water/Infrastructure-related Topics

Senator Torlakson said that his office has had an ongoing series of dialogue about how to invest in the protection of the Delta. He said he was an original member of the Commission and served three years as the Chairman during the Commission's formative stages. He also said the Commission is a cohesive group that represents the Delta and he wanted to thank the Commission for its efforts. He said he was on the Delta emergency task force with some of the very people still working in the Delta. He said they took the 3-legged stool approach and are waiting for the state to be the third leg with beneficiaries paying a variety of user fees. Senator Torlakson commended Marci Coglianesse and her concept of a Delta Summit because Delta issues, now more than ever, are in the public eye and there is cause for more coordination.

Senator Torlakson stated that there would be weekly hearings over the next three weeks with the first hearing this week on a bond proposal the Governor has put forward. He said that last year, he and Senator Perata jointly put forth a bond proposal for \$12 billion for housing, transportation, planning and Delta protection. He also said that in April 2005, there was a bond proposal of \$1 billion for delta levees—which is a historically large commitment for California. He also said he and Perata looked at how to match the \$1 billion and provide guidance. Senator Torlakson stated that the Delta has been challenged and now is the time to seize the momentum particularly in terms of looking at the devastation of Katrina, and see what we can do. He said he felt that the Legislature's focus on the Delta is good news.

He said he is drafting legislation that would have users from the rest of the state pay their fair share for drinking water. He said he wanted the Commission's input on how to draft the legislation—particularly in areas of flood control. He said that legislators in the north and south are feeding into the Delta and should be brought in because there is about \$2-5 billion of work to be done in the Delta. He stated that getting the plan to be done fairly where it respects the positions of each of the stakeholder interests would be the challenge.

Senator Torlakson said that he has been involved in the Delta for many years—first as a teacher, and then as the president of ABAG. He said that as such, he is in the midst of drafting legislation on financing and policy issues regarding land use, resource preservation, water supply, and movement in the Delta. He further said that there is an opportunity to have connections and outgrowth of identifying recreational opportunities and facilities and this could be done through a trail system that would interconnect through the Delta—something that is similar to the Bay trail. The Senator stated that he has worked on the concept of the Delta Trail, and it could connect from Martinez, (where the Bay Trail ends) through Pittsburgh, Antioch, Oakley and finally to Sacramento County. The trail would also connect Brannan Island, points of access and other trail system that have been planned or are already underway.

Senator Torlakson said there was a resolution developed in the Legislature (SCR 62) last year that began discussions that that brought together DPC staff and other interests. The possibility of the trail system is enormous and besides the five Delta counties, the three COGS, and regional government, no entity would be closer to the trail than the DPC.

He said he would be introducing a bill next week to seek funding for the planning process for the trail. He said he would like the DPC to serve as the lead agency to bring together the COGs,

county planning staff and elected officials. He urged the Commission's consideration and support.

Commissioner Reagan asked if there was a specific route for the trail. Senator Torlakson responded that the trail is more detailed in some areas, such as the area between Martinez and Antioch; however, there was no specific route, as defining the route would be part of the public process. He said that he has been working with the mayors of Antioch and Pittsburg, those cities planning staff, Contra Costa planning staff and Mirant Power Company in defining the route and trying to work out the neighbor, property rights and compatibility issues. Commissioner Reagan said that anyone in the Delta would be pleased with anything done in the Delta that would increase tourism and economic activity. He also said that assurance regarding property rights, security, as well as ag mitigation for any damage to levees, etc by the operators to the trail system are the key issues that need to be addressed. Senator Torlakson responded that he shared the sentiment and said that is why the DPC is ideally suited to serve as the lead on the trail because of its make-up of landowners, RDs, elected officials and state agency representatives.

Commissioner van Loben Sels stated that anything that would enhance the very fragile Delta economy would be welcomed. He further stated that in order to preserve and protect the strong ag base in the Delta, there should be representation of each of the five ag farm bureaus as part of the collaborative process. Senator Torlakson stated that he concurred with the suggestion.

Commissioner Simonson asked what would be the cost of the trail, and if the measure would require a bond. Senator Torlakson responded that the funding for the EIR would cost about \$500,000. He said he has spoken to the various Delta COGs about helping to develop the EIR, however their planners do not have the time as they are working on other projects. He further stated it was understood that there would be a need to pay for the EIR; and that for the Bay Trails Development, the COGs and ABAG were able to contribute some money that they collected through dues from their member cities, but most of the money contributed came from the State and other sources. He said the Coastal Conservancy and various other entities have money that could be used and they are seeking some more money from non-vehicular road pathway development planning grants. The bill for funding of the Delta trail would be separate; it would focus on funding and identifying the lead agency to receive and distribute the funds.

Chair McGowan said that he did not know where the Delta trail concept was headed but the concept did fit into DPC responsibility to deal with the recreational component in the Plan. He further said that the concept would be a challenge because of various issues but it is also is a great opportunity for the state and the DPC. He said he agreed with the Senator that because of its make-up, the Commission could have honest debate about how to develop the trail without infringing upon peoples' rights and the enjoyment of their lives. He recommended that the Commission support the letter.

Commissioner Simonsen said that he felt the trail should be a long-term goal and that the timing for the legislation was inappropriate. He said he spoke with ABAG and ABAG has concerns that the bill should be introduced after major items such as levee maintenance/repair has been addressed. He further stated that the language in the bill might be soft and he could not support it if it was a priority item for the legislature, particularly if it would take money from priority items. Senator Torlakson responded that the bill would not be viewed as a priority item. He said that depending on the feedback he received from the Commission, he would introduce the bill

naming the Commission to serve as the lead agency, but was well aware that the Commission's priorities would lie with the protection of the existence of the Delta. Commissioner Simonsen asked that an additional paragraph be added to the letter to reflect that the Commission recognizes that there are other priorities for the Legislature.

Commissioner Reagan said that he felt the same as Commissioner Simonsen. He said that he has gotten feedback from his constituency that a priority of the State is to determine whether DWR would reclaim an island if there were a levee breach. He said the State should work on deliberations to determine how much of the Delta and displacement of Delta islands would be preserved before it tries to negotiate access through public property for a trail. He said the first discussions should be on the reliability of the levee system. He also said that once the Legislature has worked through the list of concerns, then people would be more receptive to recreational opportunities.

Commissioner van Loben Sels said he would support the letter. He said that public health and safety is his number one priority; but he would support the letter because it would give the Commission an opportunity to educate the taxpayers in the State on the Delta. He further stated that this was part of the Commission's charge, but not its top priority.

Chair McGowan stated that he agreed with the other Commissioners that there were higher priority tasks that the Commission needed to lend itself to. He also said that by supporting the trail, the Commission would be elevated as it would be seen as a clearinghouse for ideas. Chair McGowan directed the Executive Director to draft language in consultation with himself and Commissioner Simonsen and request to clarify that the Commission is aware of the Legislature's priorities.

Commissioner van Loben Sels moved approval of the letter of support for Senate Concurrent Resolution 62; Commissioner Simonsen seconded. The motion was approved unanimously.

5. A. Receive Informational Presentation on Delta-wide Emergency Response Coordination and Cross-country Back-up and Communication System Technology from State and Local Perspectives

Ron Baldwin, San Joaquin County Office of Emergency Services said that billions of dollars are needed to repair the infrastructure of the flood control system. He said that emergency response needs attention because the money would allow the State to build 200-year standards. Mr. Baldwin said the State should have the most efficient emergency response system in order to identify and respond to problems and prevent a breach. Mr. Baldwin said that OES would need to integrate emergency response on a regional level, and pre identify what has been done in the past and what it still needs to do. He said that a few years ago, OES ran an exercise with DWR to show that it could put state and local people together perform a logistical management of resources. He said the OES would no longer reach out for crew, they have been doing mass evacuation planning on a regional basis and put together procedures for an integrated response. Mr. Baldwin also said that San Joaquin county would like to help to maintain a levee within the limits of its resources. He further said that FEMA regulations would not allow reimbursements for actions taken on a levee because the regulations say it is the legal responsibility of the counties. He said that barriers such as jurisdictional issues make it hard for the counties to assist in the fight.

Mr. Baldwin said the San Joaquin County is embarking on flood contingency map planning and trying to meet with agencies in advance to identify options to help respond to problems, which in turn will lay the basis as to what agencies could take what actions.

Commissioner Reagan said that the cities of Sacramento and Stockton have been left out of the next round of Homeland Security Funding. He asked if it would be feasible to create a Delta centered group that would encompass the Delta community and the three COGS to allow for use of Homeland Security Funding that would help OES respond. Mr. Baldwin responded that for the first time, key changes in Homeland Security Funding would allow the money to be used for catastrophic events other than terrorism. He said that OES has reached a point where the initial priorities such as equipment, has been met and he is hoping that there would be a multi-hazard use of the funds. He also said that San Joaquin County is putting together a regional initiative to try to get OHS to fund it.

Commissioner Ferguson asked who determines who will respond when a levee has been breached. Les Harder responded that in the case of public safety, all levels of government would be involved.

Commissioner Van Loben Sels commented that he felt that emergency response was top heavy and the five counties should come together to figure out how to get citizens to high ground. Mr. Baldwin said that was a concern, however, the California Highway Patrol and CALTRANS needed to be on board.

Jay Punia, Department of Water Resources reported that his main responsibilities are to coordinate flood operations among local state and federal facilities. Mr. Punia said that he agreed with Mr. Baldwin's vision for coordination of services. He also said DWR's role is to provide technical assistance to OES crews and try to address any emergency situation. Mr. Punia said the drawback of the existing system is that the OES crews assigned to a particular county must be mission tasked by another county. He said to address the concern, DWR wants to abolish the theoretical county boundaries in order to move resources throughout the Delta without tasking and retasking. There have been meetings with the Delta Counties, OES and DWR to formalize moving resources without having to releasing the crews and going back to OES. Additionally, DWR has a developed a standing contract with the California Conservation Corps and the California Department of Forestry and Fire Protection. He said the new system would have to be approved by the individual counties and the Governor. Mr. Punia said the DWR would like to improve and have in place, the emergency action plan at the local Reclamation Districts.

Chairman McGowan asked if there were resources available for the local RD's that wanted to participate in the action plan. Mr. Punia responded the guidelines are established for the basic information that should be included in the plans.

6. Presentation from the US Army Corps of Engineers Regarding Their Strategy for Allocation of \$90 Million Authorized by Congress for Potential Levee System and Related Improvements

Lynn O'Leary gave an update on the Corps involvement in the Delta. She said the Corp operates under the primary mission of flood control, navigation and ecosystem restoration, with current activities in the Delta Deep Water Ship Channels.

Ms. O'Leary said the Corps has the authority to perform emergency flood fighting under PL 84-99, when asked by the state; it has no authority for reclaiming levees unless they are project levees. Project levees in the Delta make up about 165 miles of the 1100 miles of levees, mainly along the San Joaquin and Sacramento rivers. She said the Corps has not had an opportunity to participate in levee improvements in the Delta until the CALFED Bay-Delta Authorization Act and prior to that, the last time the Corps undertook a levee improvement project was in the 1960's. Under the act, the Corps presented a report to Congress defining its strategy to spend the authorized \$90 million. Proposed projects include: improve Delta levees to a base level of protection according to PL-84-99 standards; develop a risk management strategy; enhance seismic stability; develop best management practices to control subsidence; develop a delta levee emergency management and response plan; improve delta levees using dredged materials; evaluate and rehabilitate Suisun marsh levees, and coordinate delta levee processes with other regional watershed projects.

Ms. O'Leary said that the authorized \$90 million in construction will fund urgent levee stability improvement projects, technical analyses and any other projects in keeping with CALFED objectives. Additionally, the Corp will define its strategy to develop short and long-term solutions for Delta risk Management strategy and Delta Islands and levees decision making process. Ms. O'Leary said that

7. APPROVE 2006 Rulemaking Calendar and Legislative Reporting Requirements

Dan Siegel reported that each year, state agencies responsible for implementation of a statute that requires interpretation pursuant to the Administrative Procedure Act to prepare a rulemaking calendar for that year. The Commission had no items to place on the calendar for 2006.

Commissioner Reagan moved approval of the 2006 Rulemaking Calendar; Commissioner van Loben Sels seconded. The motion was approved unanimously.

8. Receive Information on (1) State Proposal for Creation of Statewide California Working Lands Stewardship Advisory Council and Federal Farm Bill Discussions

Commission Shaffer reported on the Working Lands Stewardship Advisory Council. The twenty member council will represent State and federal agencies, and the public, to provide advice to the Secretary of the Department of Food and Agriculture, and the Secretary for Resources on working farms, forests and range lands. Commissioner Shaffer distributed a handout on the proposed program.

9. Executive Director Update on Significant Activities

Ms. Fiack announced that Ron Ott, CALFED Bay Delta Program had had been promoted to the position of Director of the Science Program.

Ms. Fiack announced that the Commission would be conducting its first Visioning Session on Thursday, February 2, 2006 at the Courtland Auditorium; consultants Jeff Small from Capitol Public Finance Group and Patrick Bell from EDGE Consulting would be facilitating the events.

10. Attorney General's Report

Dan Siegel reported that on January 25, 2006, the California Supreme Court granted the State's petition to review the adverse parts of the court of appeal's CALFED decision. That lower court decision had held that the CALFED Plan's EIR did not comply with certain aspects of CEQA.

11. Commissioner Comments/Announcements

There were no announcements.

12. Adjourn

The meeting was adjourned at 9:15 p.m.